IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 4TH OCTOBER 2006 / 12TH ASWINA 1928

WP(C).No. 22682 of 2003(A)

PETITIONER:

C.I. VARGHESE, S/O. IYPE,
AGED 35 YEARS, RESIDING AT CHUNDATTU VEEDU,
VENDUVAZHI, KARUKADAM P.O., KOTHAMANGALAM.

BY ADV. SRI.S.K.AJAY KUMAR
SRI.PRAKAS P. JOSEPH

RESPONDENTS:

----

1. **THE DIVISIONAL FOREST OFFICER,**
   MALAYATTOOR RANGE, MALAYATTOOR.

2. **THE VILLAGE OFFICER, KOTHAMANGALAM**
   VILLAGE, KOTHAMANGALAM.

3. **THE DEPUTY TAHSILDAR, REVENUE RECOVERY,**
   KOTHAMANGALAM.

BY GOVERNMENT PLEADER SMTSUSHEELA BHAT (FOREST)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/10/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.22682/2003

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE NOTICE DT.9.6.2003 ISSUED BY THE 3RD RESPONDENT.

EXT.P2:- COPY OF THE REPRESENTATION DT.17.6.03 GIVEN BY THE PETITIONER TO THE 3RD RESPONDENT.

EXT.P3:- COPY OF THE REPRESENTATION DT.17.6.03 GIVEN BY THE PETITIONER TO THE 2ND RESPONDENT.

RESPONDENTS EXHIBITS

EXT.R1(a):- COPY OF THE NOTIFICATION N.LC1-1555/90 DT.16.8.1994.

EXT.R1(b):- COPY OF THE REGISTERED A/D LETTER DT.14.11.1995.

EXT.R1(c):- COPY OF THE UNCLAIMED POSTAL COVER OF -DO- -DO-

E.XT.R1(d):- COPY OF THE LETTER NO.LC1-1555 /90 DT.11.6.1998.

EXT.R1(e):- COPY OF THE REQUISITION.

EXT.R1(f):- COPY OF THE LETTER NO.LC1-1555/90 DT. 19.10.2000.

/TRUE COPY/

tss

C.N.RAMACHANDRAN NAIR,J.

W.P.C.NO. 22682 OF 2003

Dated this the 4th day of October, 2006

JUDGMENT

Petitioner is challenging recovery proceedings for recovery of loss sustained by the forest department on resale of teak poles, which were sold to the petitioner, on account of petitioner's failure to lift the materials by making payment of balance sale consideration. Even though petitioner has raised various contentions against the impugned proceedings, Special Government Pleader (Forest) contended that tender conditions provided for resale on account of default in payment by the purchaser and differential cost is liquidated damages under the tender conditions which form part of the contract. A Full Bench of this Court in ABDUL RAHIMAN V. DIVISIONAL FOREST OFFICER, A.I.R. 1989 Ker. 1 held that liability under Section 79 of the Forest Act can be straightaway recovered without any adjudication. Since petitioner is admittedly the purchaser of teak poles who failed to lift the materials on payment of balance consideration, differential cost is recoverable from the petitioner. O.P. is therefore devoid of any merit and is dismissed.

(C.N.RAMACHANDRAN NAIR)
Judge